

# UNDERSTANDING ISSUES FACING LGBT AMERICANS



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### **Movement Advancement Project**

The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen their efforts for maximum impact. MAP also conducts policy research to inform the public and policymakers about the legal and policy needs of LGBT people and their families.

### **Center for American Progress**

The Center for American Progress (CAP) is a think tank dedicated to improving the lives of Americans through ideas and action. CAP combines bold policy ideas with a modern communications platform to help shape the national debate. CAP is designed to provide long-term leadership and support to the progressive movement. CAP's policy experts cover a wide range of issue areas, and often work across disciplines to tackle complex, interrelated issues such as national security, energy, and climate change.

### **GLAAD**

GLAAD rewrites the script for LGBT equality. As a dynamic media force, GLAAD tackles tough issues to shape the narrative and provoke dialogue that leads to cultural change. GLAAD protects all that has been accomplished and creates a world where everyone can live the life they love.

### **Human Rights Campaign**

The Human Rights Campaign (HRC) seeks to improve the lives of LGBT Americans by advocating for equal rights and benefits in the workplace, ensuring families are treated equally under the law and increasing public support among all Americans through innovative advocacy, education and outreach programs. HRC works to secure equal rights for LGBT individuals and families at the federal and state levels by lobbying elected officials, mobilizing grassroots supporters, educating Americans, investing strategically to elect fair-minded officials and partnering with other LGBT organizations.

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## About this report:

UNDERSTANDING Issues Facing LGBT Americans is a primer that introduces the major areas in which LGBT Americans face legal barriers to fully participating in life and provides a summary of what advocates are doing to work for change. This report incorporates information current as of December 2014. Visit [www.lgbtmap.org/understanding-lgbt-issues](http://www.lgbtmap.org/understanding-lgbt-issues).

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Note to Reader: This report aims to provide a high-level, easy-to-read summary of many of the key issues facing LGBT Americans. The authors advise the reader that this type of snapshot report cannot adequately do justice to the nuance and complexity of the issues—nor to the diversity of interests and priorities across the LGBT community. This report aims only to lay some basic groundwork and create high-level understanding. For readers wishing to deepen their knowledge of these issues, we provide a resource list and link to an online resource page at the end of this report.



# INTRODUCTION

People who are unfamiliar with how current laws and social stigma affect lesbian, gay, bisexual, and transgender (LGBT) Americans often have a simple question—what is it that LGBT Americans want? The answer is just as simple: LGBT Americans want the same chance as everyone else to earn a living, pursue health and happiness, take care of the ones they love, be safe in their communities, and serve their country (see *Figure 1*).

Unfortunately, unfair laws, lack of legal protections, institutional barriers, and stigma stand in the way of these very basic goals. This report provides a high-level overview of the burdens facing LGBT Americans as a result of this stigma and discrimination, as well as a look at what organizations and individuals are doing to make sure all Americans are treated equally and fairly.

# Who are LGBT Americans?

Just like other Americans, LGBT Americans have families, work hard to earn a living, pay taxes, and serve their communities and their country. Recent research by Gallup finds that 3.4% of the adult U.S. population identifies as lesbian, gay, bisexual, or transgender.<sup>1</sup> Applying these figures to the total number of adults in the U.S., this suggests that there are roughly 8.5 million LGBT adults nationwide.<sup>2</sup>

The LGBT community is diverse and lives throughout the United States; same-sex couples can be found in every state and in 93% of all U.S. counties.<sup>3</sup> People of color are more likely than white people to identify as LGBT: 4.6% of black people, 4.0% of Latino, and 4.3% of Asian people identify as LGBT, compared to 3.2% of white people.<sup>4</sup> A survey of more than 6,400 transgender Americans found that 24% identified as people of color.<sup>5</sup> Young people are more likely to identify as LGBT: 6.4% of 18-29 year-olds compared to 3.2% of 30-49 year-olds, 2.6% of 50-64 year-

Figure 1: The Goal: Equal Opportunity to Participate in American Life

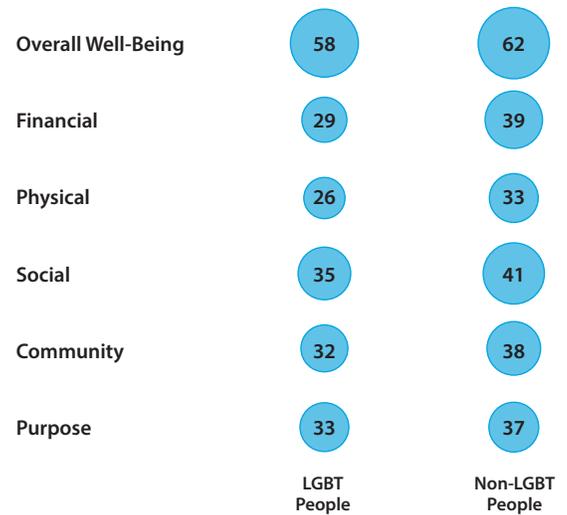


olds, and 1.9% of people 65 and older. And women are more likely to identify as LGBT than men: 3.6% of women compared to 3.3% of men.<sup>7</sup>

LGBT people are neighbors, partners, parents, coworkers, and service members. Approximately 37% of LGBT people have had a child.<sup>8</sup> There are 6 million Americans with an LGBT parent,<sup>9</sup> and analysis of three different sources suggests that between 2.0 and 2.8 million American children are *currently* being raised by LGBT parents.<sup>10</sup> More than 1 million LGBT veterans served in the United States military, and an estimated 50,000 currently serve in active duty or in the National Guard and Reserves.<sup>11</sup>

Despite the fact that LGBT people have higher levels of education,<sup>12</sup> research finds that LGBT Americans, particularly LGBT families with children and LGBT families of color, have higher rates of poverty.<sup>13</sup> LGBT Americans report a lower overall sense of well-being than non-LGBT people, with LGBT Americans reporting an average well-being score of 58 compared to 62 for non-LGBT people (see *Figure 2*).<sup>14</sup> This index rates well-being along five axes: financial, physical, social, community, and purpose.

**Figure 2: LGBT Americans Report Lower Well-Being**  
Gallup-Healthways Well-Being Index Scores, by LGBT Status



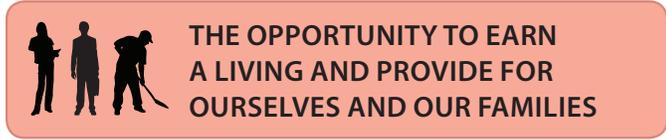
Source: Gary J. Gates, "LGBT Americans Report Lower Well-Being," *Gallup Well-Being*, August 25, 2014, accessed September 9, 2014, <http://www.gallup.com/poll/175418/lgbt-americans-report-lower.aspx>.

## Understanding the Terminology: Lesbian, Gay, Bisexual and Transgender

The terms "lesbian," "gay," and "bisexual" describe a person's sexual orientation and collectively include women and men who are predominantly or sometimes attracted to individuals of the same sex.

The term "transgender" is independent of sexual orientation and describes individuals whose gender identity (the sense of gender that every person feels inside) and/or gender expression (their behavior, clothing, haircut, voice, and body characteristics) is different from the sex assigned to them at birth. At some point in their lives, many transgender people decide they must live their lives as the gender they have always known themselves to be, and often transition to living as that gender.

# EQUAL OPPORTUNITY FOR LGBT AMERICANS



## Fair and Inclusive Workplaces

The basic American bargain is that people who work hard and meet their responsibilities should be able to succeed and provide for their families. A significant majority of Americans (72%) believe that workers should be treated fairly and equally and that no one should be fired for reasons that have nothing to do with their job performance.<sup>15</sup> This basic bargain is not just an idea—it is embedded in laws that promote equal access to jobs and that protect workers from unfair practices. But these laws do not protect everyone, despite the fact that nine out of 10 Americans believe that a federal law exists protecting LGBT workers from discrimination.<sup>16</sup>

America’s estimated 5.4 million LGBT workers<sup>17</sup> face inequality, unfairness, harassment, and discrimination in the workplace (see *Figure 3*). A 2012 survey in California found that 13% of lesbian, gay, and bisexual adults were unemployed, compared to 10% of straight adults.<sup>18</sup> Transgender workers have twice the unemployment rate of the population as a whole.<sup>19</sup> According to the

Figure 3: The Broken Bargain



For more information on LGBT workers, see our report *A Broken Bargain: Discrimination, Fewer Benefits, and More Taxes for LGBT Workers* at [www.lgbtmap.org/lgbt-workers](http://www.lgbtmap.org/lgbt-workers).

## Ashland’s Story: Fired While in the ICU



In 2006, Ashland Johnson was in the ICU at the hospital recovering from blood clots in both lungs when she received a letter from her boss. Instead of a “get well” card, she learned that she’d been terminated.

Ashland’s supervisor discovered Ashland was a lesbian. In the following days she was systematically locked out of her office, left out of department meetings, and ignored by administrative officials. Then Ashland refused to sign a “voluntary” letter of resignation from her Georgia employer.

Ashland had no legal recourse because Georgia lacks an employment nondiscrimination law covering sexual orientation. And, there is no federal law protecting her against employment discrimination on the basis of sexual orientation.

Source: Adapted from Aisha C. Moodie-Mills. “Jumping Beyond the Broom: Why Black Gay and Transgender Americans Need More Than Marriage Equality.” *Center for American Progress*. January 2012. [http://www.americanprogress.org/wp-content/uploads/issues/2012/01/pdf/black\\_lgbt.pdf](http://www.americanprogress.org/wp-content/uploads/issues/2012/01/pdf/black_lgbt.pdf).

Williams Institute, more than one in four lesbian, gay, and bisexual (LGB) employees (27%) reported experiencing employment discrimination based on their sexual orientation in the past five years.<sup>20</sup> The National Transgender Discrimination Survey found that 50% of transgender employees had been harassed at work.<sup>21</sup>

**No federal law provides explicit legal protections for LGBT workers**, and fewer than half of states have laws protecting workers from discrimination based on sexual orientation and gender identity/expression. The federal government, America’s largest employer, currently prohibits discrimination against federal workers on the basis of sexual orientation and gender identity and prohibits such discrimination by federal contractors as well. And transgender workers have some protections under federal sex discrimination laws, according to recent decisions by a number of federal courts, as well as the Equal Employment Opportunity Commission (EEOC) and the Department of Labor.<sup>22</sup>

As shown in *Figure 4* (updated in real-time at [www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws/employment](http://www.lgbtmap.org/equality-maps/non_discrimination_laws/employment)), less than half of states have legislation that protects workers for being unfairly fired just because they are transgender, and a few more protect LGB workers but not transgender workers. In states that lack

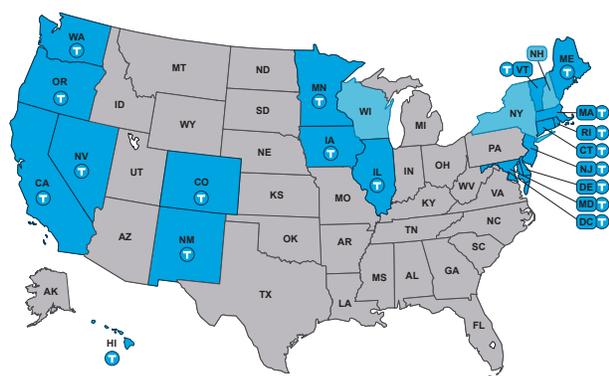
workplace protections, advocates are working to pass nondiscrimination laws. At the federal level, advocates are working to pass legislation that would protect workers across the country from unfair discrimination based on sexual orientation and gender identity. At the local level, advocates are working with cities and counties to pass nondiscrimination ordinances that prohibit employment discrimination by local governments and businesses. An estimated 200 cities and counties in states that lack legislation protecting LGBT workers have passed such ordinances.

### Access to Workplace Benefits

In general, employers that offer health insurance benefits must do so without discriminating. Federal law, however, allows large companies with self-funded insurance plans to offer family health insurance benefits to married opposite-sex couples but not to married same-sex couples.<sup>23</sup> **And no law prevents employers from offering health insurance to married couples and legally recognized children while denying such insurance to unmarried couples and non-legally recognized children.** This creates obvious problems for LGBT workers, who are denied marriage and the ability to create legal parenting ties in many states.

**Figure 4: State-Level Employment Nondiscrimination Laws**

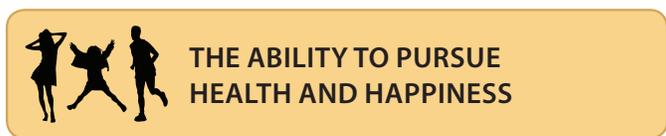
State-Level Employment Nondiscrimination Laws



- Ⓢ Employment nondiscrimination law covers sexual orientation and gender identity (18 states + D.C.)
- Ⓜ Employment nondiscrimination law covers only sexual orientation (3 states)
- Ⓛ No employment nondiscrimination law covering sexual orientation or gender identity (29 states)

Note: A 2012 ruling by the federal Equal Employment Opportunity Commission extends Title VII’s prohibition on sex discrimination to prohibit discrimination against transgender people.

Source: Movement Advancement Project, “LGBT Equality Maps: Non-Discrimination Laws.”



### Access to Health Insurance

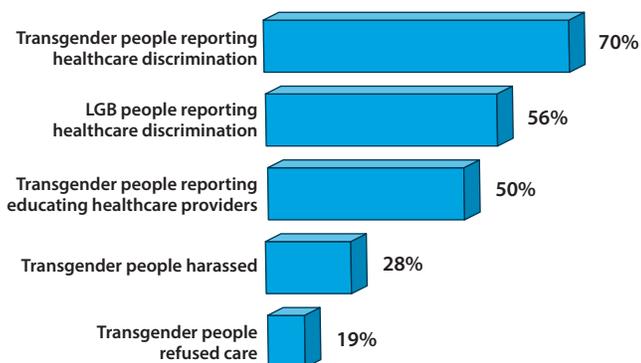
LGBT people are less likely than the broader population to have health insurance coverage (17.6% of LGBT people lack health insurance compared to 13.2% of their peers).<sup>24</sup> This reduced access to coverage is more pronounced among LGBT people of color and low- and middle-income LGBT people: One in four (26%) low- and middle-income LGBT people do not have health insurance.<sup>25</sup> Lack of relationship recognition for same-sex couples makes it difficult for these couples to cover one another with employer-sponsored coverage, and employment discrimination traps many LGBT people in lower-wage jobs that may not offer benefits such as health insurance.<sup>26</sup> **Transgender workers often face denials of coverage**, higher premiums, and exclusions for both basic and transition-related care. In fact, some insurers have refused to provide transgender people with health coverage entirely.

## Physical and Mental Health

When lack of health insurance is coupled with the daily stress of discrimination, it is not surprising that **LGBT Americans have poorer health outcomes**, and higher risk of chronic illness, chronic physical conditions, HIV/AIDS, psychological distress and mental health disorders, and overall poorer health.<sup>27</sup> LGBT adults say they are more likely to delay medical care, in part because of a fear of discrimination or lack of understanding by healthcare providers.<sup>28</sup>

HIV-related healthcare remains costly, and securing adequate funding for care, prevention, and research is a constant challenge. Advocates are working to improve treatment and care services, especially for at-risk communities, including older adults, people in correctional facilities, people of color, and transgender people. In addition, **HIV criminalization statutes** and state laws that criminalize the transmission of HIV continue to **disproportionately punish HIV-positive people for potential exposure to the virus**. Sentences for those who are HIV-positive are often irrationally harsh and often ignore scientific fact regarding how and when the virus is transmitted.<sup>29</sup>

**Figure 5: LGBT People Report High Rates of Healthcare Discrimination**



Source: Lambda Legal, "When Health Care Isn't Caring: Lambda Legal's Survey of Discrimination Against LGBT People and People with HIV," 2010, [http://data.lambdalegal.org/publications/downloads/whicreport\\_when-health-care-isnt-caring.pdf](http://data.lambdalegal.org/publications/downloads/whicreport_when-health-care-isnt-caring.pdf); Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey," National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf).

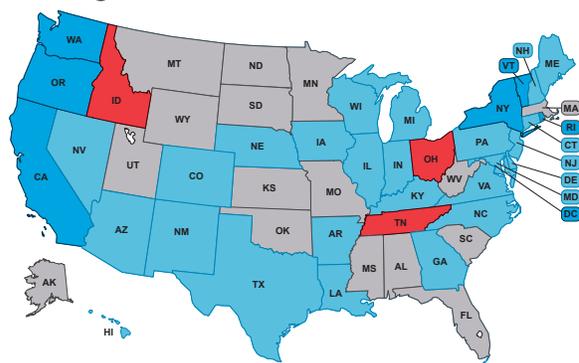
## Access to Competent and Welcoming Healthcare Providers

Even when LGBT people and their families can obtain health insurance, they may still face **inhospitable healthcare environments** (see *Figure 5*). A survey found that **56% of lesbian, gay, and bisexual respondents and 70% of transgender or gender-nonconforming respondents had been discriminated against in a healthcare setting**.<sup>30</sup> Some professional healthcare staff, including physicians, counselors, and receptionists, are hostile or unwilling to work with LGBT people, while others are not trained to do so. And while federal regulations require hospitals participating in Medicare and Medicaid to prohibit discrimination in hospital visitation based on sexual orientation and gender identity, LGBT people still may face refusals to allow partners and children to visit in other facilities, such as nursing homes and private hospitals.

## Access to Identity Documents Needed for Daily Living

Transgender people face substantial obstacles in daily life because they may be unable to obtain identity documents that reflect their gender. Many states make it difficult (or impossible) to obtain a new birth certificate or other identity documents with a corrected gender (see *Figure 6*, updated in real time at [www.lgbtmap.org/equality-maps/birth\\_certificate\\_laws](http://www.lgbtmap.org/equality-maps/birth_certificate_laws)). Some states will only issue an obviously amended birth certificate, which can draw attention to changes.

**Figure 6: State Birth Certificate Policies**



- State issues new birth certificate and does not require sex reassignment surgery (6 states + DC)
- State requires proof of sex reassignment surgery to issue new birth certificate (25 states)
- State requires proof of sex reassignment surgery to amend birth certificate (16 states)
- State does not issue new birth certificate or amend existing documents (3 states)

\*Note that New York City has its own policy

Source: Movement Advancement Project, "LGBT Equality Maps: Birth Certificate Laws."

Additionally, states may require that transgender people have proof of surgery or a court order in order to obtain accurate documents, which presents costly and intrusive burdens. A revised birth certificate may be required to make changes to a driver's license or other identity documents. When transgender people's identity documents, such as a driver's license, do not reflect their current gender—or when a birth certificate is amended rather than reissued—transgender people are at risk for being “outed.” This can result in discrimination, physical violence, and denial of employment, housing, or public benefits. Advocates are working with states to ease processes for obtaining accurate documents.

### Freedom from Discrimination

Many LGBT people experience discrimination when going about their daily activities—whether eating at a restaurant with their families or friends, trying to obtain safe, clean housing, or applying for a loan. One study found that in 16% of cases, same-sex couples encountered discrimination when trying to rent or buy a home, and another study found that 19% of transgender respondents had been refused a home or apartment because of their gender identity or expression.<sup>31</sup> Under federal law, **LGBT people are not protected from discrimination in housing, public accommodations, credit, or employment** (discussed above). Advocates are working to pass both federal and state nondiscrimination laws that would protect LGBT people from discrimination when seeking housing, accessing public accommodations (such as restaurants and hotels) or when applying for loans. A 2011 poll found that 79% of Americans supported nondiscrimination protections in these areas.<sup>32</sup>

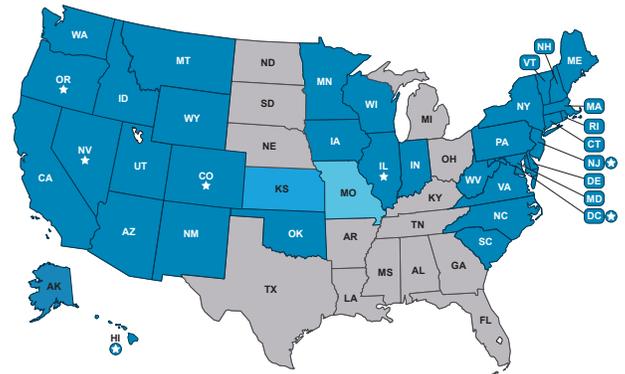


**THE ABILITY TO TAKE CARE OF  
THE ONES WE LOVE**

### Freedom to Marry

Like other couples, same-sex couples want the chance to make the lifelong promise of marriage to take care of and be responsible for each other. However, even after the 2012 Supreme Court ruling that the federal government must recognize same-sex married couples and the 2014 decision to deny review of three Circuit Court decisions, **same-sex couples still cannot legally marry in many states.** *Figure 7* (updated in real-

**Figure 7: Positive Relationship Recognition**

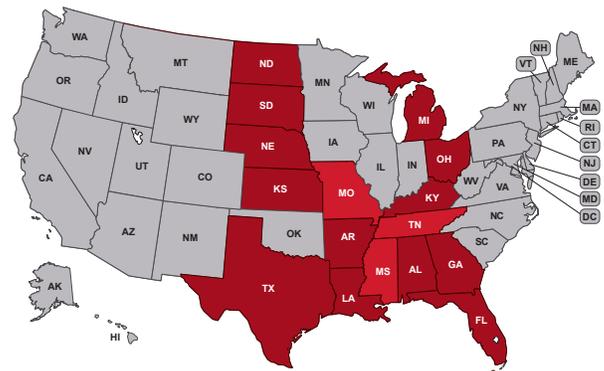


- Marriage equality for same-sex couples (34 states + D.C.)
- ★ Comprehensive civil union or domestic partnership law (6 states + D.C.)
- Ruling in favor of marriage equality from appellate courts. Marriage available to same-sex couples pending further action (1 state)
- Out-of-state marriages recognized, but same-sex couples may not marry in-state (1 state)
- No legal recognition for same-sex couples (14 states)

Note: This map was current as of the date of publication. For an up-to-date look at the landscape of marriage equality across the United States, please visit [www.lgbtmap.org/equality\\_maps/marriage\\_relationship\\_laws](http://www.lgbtmap.org/equality_maps/marriage_relationship_laws).

Source: Movement Advancement Project, “LGBT Equality Maps: Marriage & Relationship Recognition.”

**Figure 8: Negative Relationship Recognition**



- Constitutional amendment bans marriage and other forms of relationship recognition similar to marriage for same-sex couples (13 states)
- Constitutional amendment bans marriage for same-sex couples (3 states)
- Statute bans marriage for same-sex couples (13 states)
- No legal ban on marriage or relationship recognition (34 states + D.C.)

Note: Many states have both constitutional amendments and statutes banning marriage and/or relationship recognition. Total counts are included in the key. This map was current as of the date of publication. For an up-to-date look at the landscape of marriage equality across the United States, please visit [http://www.lgbtmap.org/equality-maps/marriage\\_relationship\\_laws/negative-map](http://www.lgbtmap.org/equality-maps/marriage_relationship_laws/negative-map).

Source: Movement Advancement Project, “LGBT Equality Maps: Marriage & Relationship Recognition.”

time at [www.lgbtmap.org/equality-maps/marriage\\_relationship\\_laws](http://www.lgbtmap.org/equality-maps/marriage_relationship_laws)) shows the states where same-sex couples can legally marry or enter into a domestic partnership or civil union that provides some of the legal protections of marriage.

Some states still have state-level laws banning same-sex couples from marriage and/or prohibiting other forms of relationship recognition. These state laws stand in the way of same-sex couples' ability to take care of one another and tell them that their relationships and families don't matter. *Figure 8* (updated in real-time at [www.lgbtmap.org/equality-maps/marriage\\_relationship\\_laws/negative-map](http://www.lgbtmap.org/equality-maps/marriage_relationship_laws/negative-map)) on the previous page shows the states that have laws banning same-sex couples from marriage. Denying marriage to same-sex couples is not only harmful; it affects everything from the ability of a couple raising children to have both partners recognized as legal parents to the denial of medical-decisionmaking authority for a child or partner in an emergency.

Support for marriage equality is at an all-time high and continues to grow: in May 2014, Gallup found that 55% of Americans support the freedom to marry.<sup>33</sup> Since the October 2014 denial by the Supreme Court to review pending marriage equality decisions, state marriage

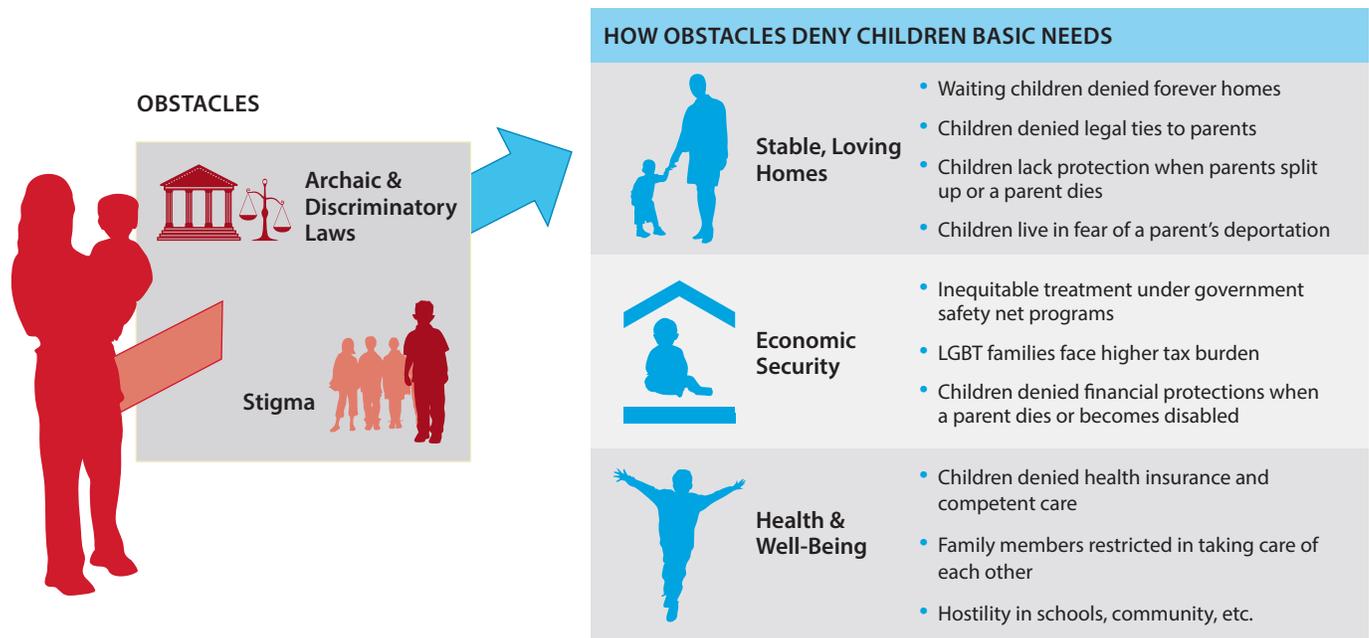
bans have been falling quickly. Seventeen states gained the freedom to marry in 2014. The legal landscape is changing continuously. Please visit our website ([www.lgbtmap.org/equality-maps](http://www.lgbtmap.org/equality-maps)) for the most up-to-date information.

### Securing Legal Ties between Parents and Children

Most Americans agree that the law should protect the best interests of children. However, for children with LGBT parents, the law does the opposite, acting to undermine family permanency, separate children from loving parents, and increase family poverty rates (see *Figure 9*).

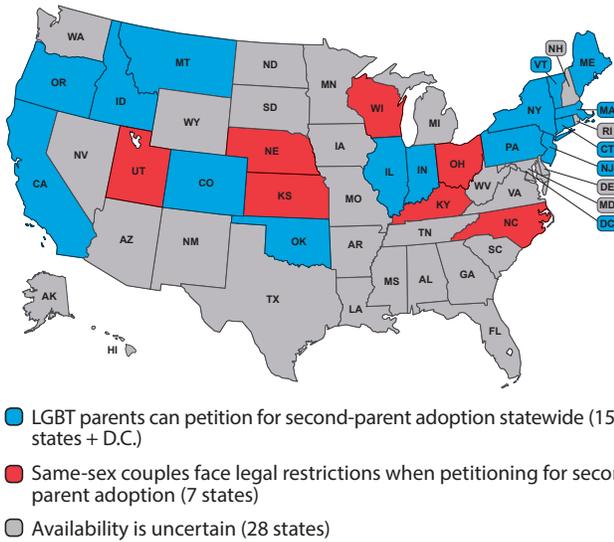
For example, when a woman in a married lesbian couple gives birth to a child, 34 states and the District of Columbia recognize both mothers as legal parents of the child. In the remaining states, the child is a legal stranger to a parent who has raised him or her since birth. Similarly, when same-sex couples form blended families (where one parent has a child from a prior relationship), the new parent is often barred from using simplified stepparent adoption processes available to parents in opposite-sex couples to secure legal ties to a stepchild.

Figure 9: Bad Laws and Stigma Deny Children Their Basic Needs



For more information on how the children of LGBT parents become collateral damage of ideology and laws designed to hurt LGBT people, see our report *All Children Matter: How Legal and Social Inequalities Hurt LGBT Families* at [www.lgbtmap.org/policy-and-issue-analysis/lgbt-families](http://www.lgbtmap.org/policy-and-issue-analysis/lgbt-families).

**Figure 10: State Second-Parent Adoption Laws**



Source: Movement Advancement Project, "LGBT Equality Maps: Second-Parent Adoption."

Some states do allow a parent without legal ties to his or her child to go to court to obtain a **stepparent or a second-parent adoption**, allowing the second parent to become a legal parent of the child without terminating the rights of the existing parent. However, the availability of second-parent and stepparent adoption varies greatly across the country (see *Figures 10 and 11*, updated in real-time at [www.lgbtmap.org/equality-maps/foster\\_and\\_adoption\\_laws](http://www.lgbtmap.org/equality-maps/foster_and_adoption_laws)).

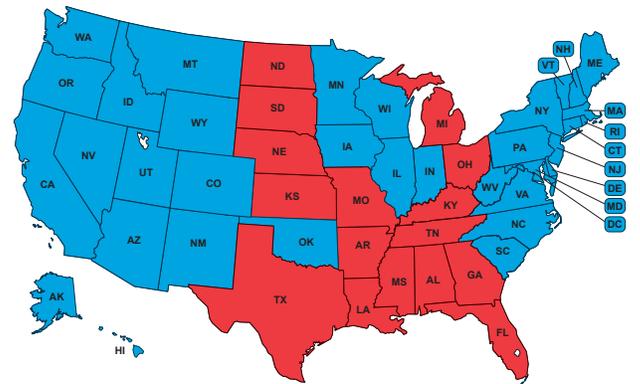
Despite the almost 400,000 children in foster care awaiting permanent "forever homes,"<sup>34</sup> a number of states still prevent same-sex couples from jointly adopting children (as shown in *Figure 12* updated in real-time at [www.lgbtmap.org/equality-maps/foster\\_and\\_adoption\\_laws/joint\\_adoption\\_laws](http://www.lgbtmap.org/equality-maps/foster_and_adoption_laws/joint_adoption_laws)).

Advocates and legal organizations are working to **obtain family court judgments and pass legislation** that allows families to create legal ties between parents and children, including the federal **Every Child Deserves a Family Act**.

The impacts of depriving LGBT families the ability to form family ties are many and varied. Because states frequently refuse to recognize two same-sex parents, children are often denied health insurance coverage through a parent who is not legally recognized. Children also may be ripped away from the only home they've ever known if something happens to the legal parent.

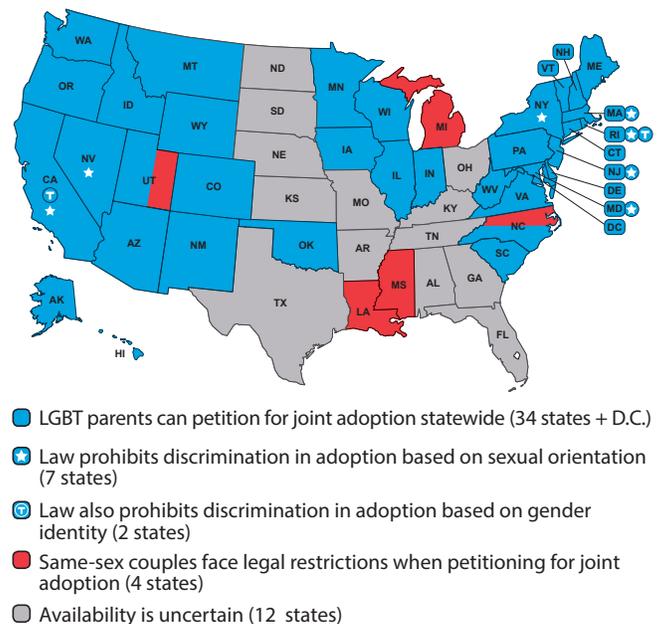
In addition, low-income families may have less access to government safety net programs. Finally, most families headed by same-sex couples are hurt economically when laws do not recognize their relationships and therefore deny them access to family tax credits that are readily available to non-LGBT families.

**Figure 11: State Stepparent Adoption Laws**



Source: Movement Advancement Project, "LGBT Equality Maps: Stepparent Adoption."

**Figure 12: State Joint Adoption Laws**



Source: Movement Advancement Project, "LGBT Equality Maps: Joint Adoption."

## University Professor Could Lose Benefits for Her Family

Corey Seemiller and her partner, Karrie Mitchell, live in Arizona with their infant daughter. Because Corey and Karrie couldn't marry in Arizona, and because the availability of second-parent adoption was uncertain, Karrie was their daughter's only legal parent. Corey and Karrie tried to create as much security for their daughter as possible. Through a co-parenting agreement and a power of attorney, Corey could make decisions about their daughter's medical care and education, and the couple created a trust to care for their daughter if anything were to happen to one of them.

Fortunately, Corey worked for the University of Arizona, which offered domestic partner benefits to the partners of gay and lesbian employees and their children. However, in 2009 Arizona passed legislation that prohibited any state institution from offering domestic partner benefits. After this legislation went into effect in 2013, families like Corey and Karrie's were unable to access domestic partner benefits and family health insurance coverage.

Adapted from Lambda Legal, *Collins v. Brewer*, [http://www.lambdalegal.org/in-court/legal-docs/collins\\_az\\_20100107\\_amended-complaint-us-district-court.html](http://www.lambdalegal.org/in-court/legal-docs/collins_az_20100107_amended-complaint-us-district-court.html).

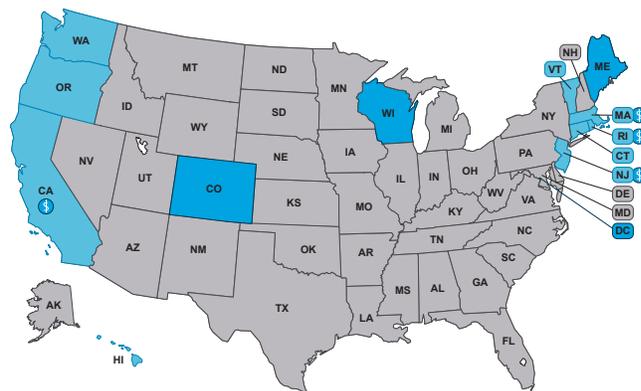
## Caring for a Sick Partner or Child

The federal Family and Medical Leave Act (FMLA) allows workers to take unpaid, job-protected leave to care for a "spouse," but not an unmarried partner. The Department of Labor recently clarified that a worker in a married, same-sex couple who lives in a state that fully recognizes the marriage can take FMLA leave to care for his or her spouse.<sup>35</sup> However, many LGBT workers live in states that ban same-sex couples from marrying, meaning they cannot take FMLA leave to care for a partner.<sup>a</sup>

When it comes to caring for children, FMLA uses a broad definition of family, defining a worker's "son or daughter" as a biological, adopted or foster child; a stepchild; or "a child of a person standing *in loco parentis*" (meaning the worker acts as a parent for the child). This allows an LGBT worker to take time off to take care for his or her child, regardless of whether the worker is

<sup>a</sup> As of publication, the Department of Labor announced that it would be updating the FMLA regulations to allow legally married same-sex couples to take FMLA leave to care for one another, regardless of their current state of residence.

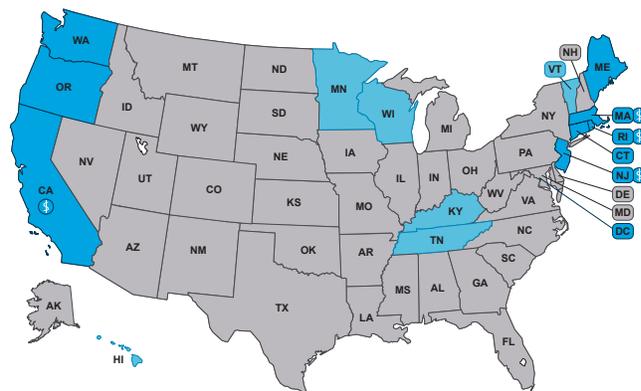
Figure 13: State Family Leave Laws: Spouse/Partner



- Law grants workers leave to care for a same-sex partner, even if couple is not legally recognized (3 states + D.C.)
- Law grants workers leave to care for a same-sex partner, but only if couple is in a legally recognized relationship (9 states)
- State lacks leave law (38 states)
- ⌚ State leave law includes pay during time off (4 states)

Source: Movement Advancement Project, "LGBT Equality Maps: Family Leave."

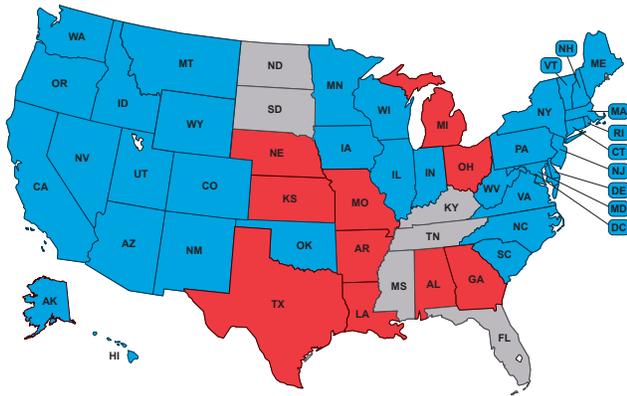
Figure 14: State Family Leave Laws: Children



- Law grants workers leave to care for a child for whom the worker is parenting, even if the worker lacks a legal or biological relationship to the child (8 states + D.C.)
- Law grants workers leave to care for a child only if the worker has a legal or biological relationship to the child (6 states)
- State lacks leave law (36 states)
- ⌚ State leave law includes pay during time off (4 states)

Source: Movement Advancement Project, "LGBT Equality Maps: Family Leave."

legally recognized as the parent of that child.<sup>36</sup> But the fact remains that over 40% of workers are ineligible for FMLA, making them reliant on state law to determine if they can take leave to care for their family.<sup>37</sup> As shown in *Figures 13 and 14* (updated in real-time at [www.lgbtmap.org/equality-maps/fmla\\_laws](http://www.lgbtmap.org/equality-maps/fmla_laws)), 12 states and D.C. have state-level medical leave laws that are inclusive of same-

**Figure 15: State Medical Decision-Making Policies**

- Law explicitly gives same-sex couples equal or substantially equivalent standing to other family members (34 states + D.C.)
- Law offers limited recognition of same-sex partners through broad language (6 states)
- Same-sex couples treated as legal strangers (10 states)

Source: Movement Advancement Project, "LGBT Equality Maps: Medical Decision Making."

### Why Don't LGBT People Just Move?

Given the vastly different legal protections available to LGBT people across the states, LGBT people are sometimes asked, "Why don't you just move?" The answer for many LGBT people is the same as it is for other Americans: This is where they grew up, where they have family, and where they have a community and readily available job opportunities.

According to Williams Institute demographer Gary J. Gates, nearly 60% of people who identify as lesbian, gay, or bisexual say they live in the same state they lived in when they were 16 years old. Of this group, two-thirds still live in the same city. Compared to heterosexual-identified adults, the numbers are roughly the same. Gates explains, "This doesn't mean that LGBT people don't try to move to more progressive neighborhoods within their communities, but those who live in more conservative areas are there, like their neighbors, because it's the best option for them in terms of employment, affordability, and for some, schools and child-oriented amenities." He continues, "Most LGBT people don't and aren't able to live in overtly LGBT-friendly places. They don't have the resources to make those choices. As a result, they likely endure some prejudice in return for being able to live in affordable areas near their families and longtime friends."<sup>38</sup>

sex couples, but most of these laws do not allow workers to take time off to care for a child unless the worker is a legal parent of that child.

Finally, in many states, same-sex couples are not guaranteed the ability to make medical decisions for each other, as shown in *Figure 15* (updated in real-time at [www.lgbtmap.org/equality-maps/medical\\_decision\\_making](http://www.lgbtmap.org/equality-maps/medical_decision_making)). Passage of **relationship recognition** at the state level and legislation such as the **Family and Medical Leave Inclusion Act** would ensure that LGBT couples can make medical decisions and take time off to take care of an ill family member. For more information about family medical leave and LGBT workers, see our report *An Impossible Choice: LGBT Workers and Family Leave Law* at [www.lgbtmap.org/family-leave](http://www.lgbtmap.org/family-leave).

### Immigration

With the federal government now required to recognize legally married same-sex couples, U.S. citizens who are married to someone from another country have a greater ability to sponsor their spouse for immigration. However, as noted above, same-sex couples cannot marry in every state. The result is that there are still same-sex couples who are not able to sponsor a partner for immigration. Likewise, LGBT immigrants without a citizen or permanent resident partner are also at risk. **Without passage of comprehensive immigration reform, LGBT immigrants will continue to live in limbo.** In a positive development, the U.S. Department of Homeland Security issued guidance in October 2012 stating that when considering an immigrant's "family relationships" during deportation proceedings, officials should include long-term, same-sex partners.

Living in the U.S., LGBT immigrants, whether documented or not, are more likely to come into contact with law enforcement officials. The frequency of these interactions is likely increased by quotas set by Congress to detain a certain number of immigrants each day. Once detained, LGBT immigrants are especially vulnerable to discrimination and mistreatment. Often held in prison-like conditions, LGBT immigrants, including asylees, face sexual assault, denial of medical care, physical and mental abuse, and placement in solitary confinement.<sup>39</sup>



### Inclusive Hate Crime Laws

Recent statistics from the Federal Bureau of Investigation (FBI) and the National Coalition of Anti-Violence Programs (NCAVP) show that **crimes against LGBT people** remain a serious problem. According to the FBI, 19% of hate crimes in 2012 included some form of sexual orientation bias,<sup>40</sup> while a separate report found 26% of transgender people experienced physical assault because they were transgender.<sup>41</sup> The 2013 NCAVP report found that transgender people and people of color were more likely to experience hate-related violence than other individuals.<sup>42</sup>

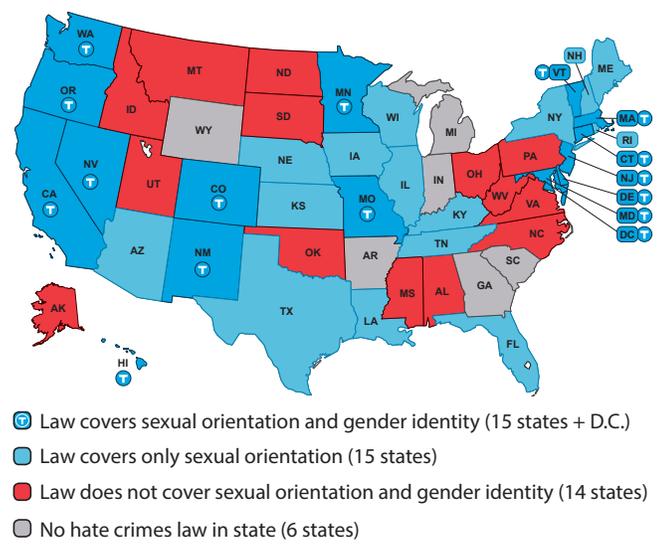
Laws exist to help prosecute perpetrators of crimes motivated by anti-LGBT bias. The **Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009** gives the Department of Justice the ability to investigate and prosecute crimes when an individual is targeted because of actual or perceived gender, sexual orientation, or gender identity, along with a number of other categories. Thirty states and the District of Columbia have **state hate crimes laws** that cover individuals who are targeted because of their sexual orientation. Fifteen states and

D.C. have laws addressing both sexual orientation and gender identity (see *Figure 16*, updated in real-time at [www.lgbtmap.org/equality-maps/hate\\_crime\\_laws](http://www.lgbtmap.org/equality-maps/hate_crime_laws)). Advocates are working to ensure that all states have fully inclusive hate crimes laws. Expanding state laws to include sexual orientation and gender identity sends a message that violence against LGBT people is wrong.

### Safe Schools

News coverage of bullying and violence against youth known or believed to be LGBT has spurred unprecedented discussion about **bullying and harassment**. Currently, however, **safe schools laws** protect students from bullying based on sexual orientation and gender identity in only 18 states and the District of Columbia (see *Figure 17*, updated in real-time at [www.lgbtmap.org/equality-maps/safe\\_school\\_laws/bullying](http://www.lgbtmap.org/equality-maps/safe_school_laws/bullying)). Thirteen states and D.C. prohibit discrimination in schools based on sexual orientation and gender identity (see *Figure 18* on the next page, updated in real-time at [www.lgbtmap.org/equality-maps/safe\\_school\\_laws/discrimination](http://www.lgbtmap.org/equality-maps/safe_school_laws/discrimination)). Advocates continue to work for passage of stronger policies and additional state-level laws, but they are also advocating for passage of the federal **Student Non-Discrimination Act** and **Safe Schools Improvement Act** (which would provide protections against discrimination and bullying in public schools, respectively) and the **Tyler Clementi Higher Education Anti-Harassment Act** (which would protect college students).

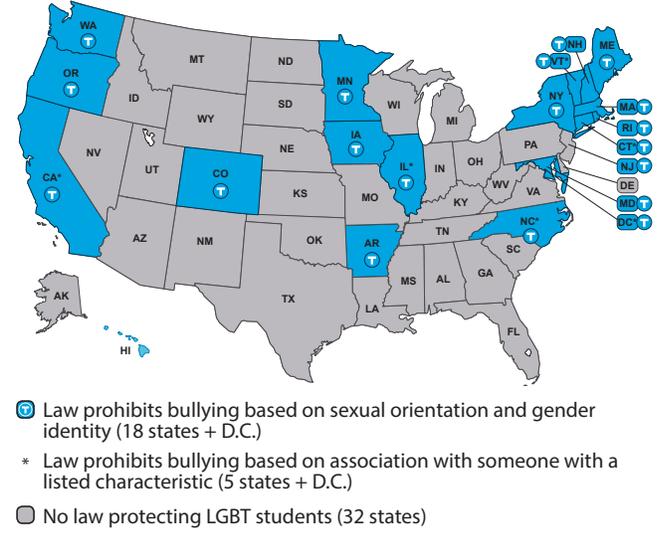
Figure 16: State Hate Crime Laws



Note: The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act is a federal law that amended federal hate crimes law to include gender, sexual orientation, gender identity, and disability.

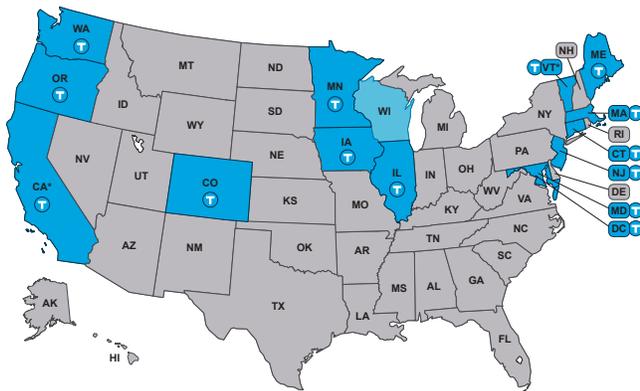
Source: Movement Advancement Project, "LGBT Equality Maps: Hate Crimes."

Figure 17: Anti-Bullying Laws



Source: Movement Advancement Project, "LGBT Equality Maps: Anti-Bullying."

Figure 18: Schools Non-Discrimination Laws



- Ⓣ Law prohibits discrimination in schools based on sexual orientation and gender identity (13 states + D.C.)
- Ⓣ Law prohibits discrimination in schools based on sexual orientation only (1 state)
- \* Law prohibits discrimination in schools based on association with someone with a listed characteristic (2 states)
- Ⓣ No law protecting LGBT students (36 states)

Source: Movement Advancement Project, "LGBT Equality Maps: School Non-Discrimination."

## Homelessness

**LGBT people are disproportionately likely to be homeless, as are LGBT youth.** An estimated 20% to 40% of homeless youth in the United States identify as LGBT or believe they may be LGBT<sup>43</sup> compared to an estimated 5% to 7% of youth who identify as LGBT.<sup>44</sup> While the reasons why people end up homeless vary, a lack of housing for LGBT people can be the result of discrimination and mistreatment in any number of areas. For example, LGBT people facing employment or housing discrimination often are left without the financial means to afford housing or the ability to find stable housing. And, for LGBT youth, family rejection because of their sexual orientation or gender identity/expression forces many out of their homes.<sup>45</sup> In addition, transgender people may be unable to stay in a shelter that matches their gender identity (as opposed to their sex assigned at birth), making them less likely to seek shelter altogether.<sup>46</sup> A 2010 survey of transgender people found that 29% had been turned away from a shelter because of their transgender status.<sup>47</sup>

The safety net designed to support homeless people in this country, LGBT and non-LGBT alike, has failed. Policy change is needed to improve the resources available to homeless LGBT people and to provide protections in housing, employment, and other areas to help prevent homelessness.

## Family Acceptance

A welcoming family is crucial to the health and well-being of LGBT youth. Unfortunately, research shows that up to 30% of families reject their children when they learn they are LGBT.<sup>48</sup> Among transgender youth who responded to a recent survey, 27% reported that their families were very accepting of LGBT people, while more than a third (33%) reported that their families were not accepting.<sup>49</sup> LGBT young adults who reported higher levels of family rejection were over eight times more likely to attempt suicide and almost six times more likely to report high levels of depression.<sup>50</sup> Conversely, **family acceptance can protect youth from many threats to well-being**, including health risks like HIV infection and suicide.<sup>51</sup> Advocates are working to provide families and youth with more resources to promote acceptance.

## Welcoming Faith Communities

For many LGBT people, finding supportive and affirming faith communities is important and meaningful. Yet many LGBT people have experienced alienation and disapproval within and from faith communities. A recent study found that "acceptance of gay and lesbian" congregation members increased from 37% to 48% in American congregations from 2006-2012.<sup>52</sup> A number of **religious denominations explicitly support LGBT people**—whether by ordaining openly LGBT clergy members, officiating weddings for same-sex couples, or by publicly supporting LGBT equality. These welcoming denominations include the Episcopal Church, the Unitarian Universalist Association, the United Church of Christ, the Metropolitan Community Church, the Presbyterian Church (USA), and three of the four movements of Judaism.<sup>53</sup> According to a recent poll, 86% of Christians said their faith leads them to conclude that all people, including LGBT people, should be treated equally by the law.<sup>54</sup>



## THE OPPORTUNITY TO SERVE OUR COUNTRY

### Military Service

Many LGBT people serve America with honor and integrity. Since September 2011, gay, lesbian, and bisexual Americans have been able to serve openly in the military following the **repeal of the “Don’t Ask, Don’t Tell” law**, which prohibited service by openly gay, lesbian, and bisexual service members. But LGBT service members still are not treated equally. Transgender people may not serve openly; advocates are working to change **medical exclusion policies** that bar open service by the 15,000 transgender people currently serving in U.S. military.<sup>55</sup> In addition, despite the federal government’s recognition of legally married same-sex couples, some veterans and their spouses are still denied benefits from the Veterans Administration, which only recognizes couples living in states that have the freedom to marry.<sup>56</sup>

### Public Service

LGBT Americans, just like other Americans, want to contribute positively to society through public service and volunteerism. Every state but Idaho has at least one elected official who is openly LGBT, although very few states have any openly transgender elected officials. In November 2012, Wisconsin elected the first openly gay or lesbian U.S. Senator, Tammy Baldwin. The 2012 elections also brought the first openly gay person of color to Congress, Rep. Mark Takano from California, and the first openly bisexual member of Congress, Rep. Kyrsten Sinema from Arizona. The 113th Congress had the highest number of out LGBT members of any Congress in history: seven.<sup>57</sup> In September 2013, the Senate unanimously confirmed Todd Hughes to serve on the U.S. Court of Appeals for the Federal Circuit, making him the nation’s first openly gay federal appellate judge. The 2014 elections brought the first out lesbian state Attorney General: Maura Healy of Massachusetts. Governmental recognition of the contributions of LGBT civilians reached a high in 2013 and 2014, when astronaut Sally Ride and civil rights leader Bayard Rustin were posthumously granted the Presidential Medal of Freedom, and LGBT-rights pioneer Harvey Milk was featured on a postage stamp.

## PROGRESS TOWARD EQUALITY

While LGBT people in the United States still face many challenges, there has been important progress toward equality in recent years. Support for the freedom to marry has risen from 30% in 2003 to 55% in 2014,<sup>58</sup> and same-sex couples can marry in a majority of states. Gay men, lesbians, and bisexual people can now serve openly in the military. And while more than 50% of lesbian, gay, and bisexual Americans live in states where they are protected from employment discrimination based on sexual orientation, recent federal court and agency rulings create some nationwide workplace protections for transgender workers. LGBT federal employees across the country are protected. Last but not least, federal hate crimes laws penalize anti-LGBT violence.

There are many local, state, and national organizations working to make things better for LGBT people, and change is happening every day. For more detailed information about the challenges experienced by LGBT people, visit [www.lgbtmap.org/understanding-lgbt-issues](http://www.lgbtmap.org/understanding-lgbt-issues). For ways to talk to others about these issues or about LGBT people more generally, see the *Talking About LGBT Issues* series at: [www.lgbtmap.org/effective-messaging/talking-about-lgbt-issues-series](http://www.lgbtmap.org/effective-messaging/talking-about-lgbt-issues-series). For the reports listed throughout this report, such as the *Broken Bargain*, *All Children Matter*, and *Paying an Unfair Price*, visit [www.lgbtmap.org/policy-and-issue-analysis](http://www.lgbtmap.org/policy-and-issue-analysis).

## ENDNOTES

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**MAP thanks the following funders, without whom this report would not have been possible.**

David Bohnett Foundation  
 David Dechman  
 David Geffen Foundation  
 Ford Foundation  
 Gill Foundation  
 Esmond Harmsworth  
 Jim Hormel  
 Johnson Family Foundation  
 Amy Mandel and Katina Rodis  
 Weston Milliken  
 Kevin J. Mossier Foundation  
 The Palette Fund  
 Mona Pittenger  
 H. van Ameringen Foundation  
 Sara Whitman



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